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LICENS'D, Decemb. 19. 1689.

J. FRASER.

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With some Inferences thereunto made for the
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of Affairs to King WILLIAM and
QUEEN MARY.

JOHN BURNET, Author.

LONDON

Printed for J. BARNARD, in Strand.

The Preface.

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late happy Change, but they are
obvious in themselves, and were not
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PREFACE.

I Would not have the Reader think that I approve of every thing related in this Historical Account. That which I think myself concerned to make good is this,

1. That what I do relate as History, is Historically true, or that it is delivered without fraud, or wilful perversion of the Authors cited.

2. That what I lay as the Foundation of my Inferences is sufficiently confirmed by what I have delivered in this History.

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That may, perhaps, be useful for many other ends relating to our Late happy Change, but they are obvious in themselves, and were not chiefly designed by me, and therefore are not mentioned here.

Farewell,

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Magna Charta, and the Charter de Forestis.

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AN
HISTORICAL ACCOUNT
OF THE
ENGLISH GOVERNMENT.

SECTION I.

That from the Norman Conquest, to this present time, there was an Original Compact or Establishment of Laws, by which the Kings of England were to Govern, and the People to be governed.

I Am apt to think it may be want of due consideration of the *History*, and *Constitution* of our *Government*, which makes some worthy Persons of the *Clergy* so stiff in their refusal of the *Oath of Allegiance* to King *William*, and Queen *Mary*. Now the great mischief which this unhappy Division may bring upon the *Protestant Religion*, both at home and abroad, and the vile Imputations which are cast on that great Body of the *Clergy* which hath taken this *Oath*, will justify our Endeavours to set this matter before them

in the clearest light, and to let others know what hath been done by our *Fore-fathers* to secure their Laws and Liberties; what *Compacts* they made with their *Kings*; how uneasy they were under the Violation of them, and what Conceptions they had touching the Nature and Constitution of the *English* Government, and touching the *Allegiance* due to their *Prince*. Now in order to these things, let it be observed,

Ubi Aldredus Archiepiscopus, Wulfstanus Wigorniensis Episcopus, Clito, Eadgerus Comes, Eadwinus & Morcarus & de Lundenia quique Nobiliores, cum multis aliis ad eum venerant, & dactis obsequiis illi dedicationem fecerant, fidelitatemque iuraverant, cum quibus & ipse foedus pepigit. Duncelm p. 195. Flor. Wig. p. 635. R. Hov. F. 258.

First, That Florence of Worcester, Simon of Dunham, and R. Hoveden expressly say, That William, called the Conqueror, made a League, or Compact with the Arch-Bishops, Bishops, Earls, and Nobles of the Land, who met him at Beorcham.

Secondly, That the aforesaid Authors, with Daniel p. 36. John Brompton, declare, That as the Bishops and Barons of the Realm swore Fealty to him, so he reciprocally, being required so to do by the Arch-Bishop of York, made his Personal Oath before the Altar of St. Peter to defend the Holy Church of God, and the Rectors of the same, to govern all the People subject to him justly, to establish equal Laws, and to see them duly executed.

Ipso Nativitatis die ab Aldredo Eboracensium Archiepiscopo in Westmonasterio consecratus est, honorifice prius, ut idem Archiepiscopus ab eo exigebat, ante Altare Sancti Petri Apostoli, coram Clero & populo, iurando promittens se velle Dei Sanctas Ecclesias, & earum Rectores defendere, necnon & cunctum populum sibi subiectum iuste, & Regali providentia verè regere, rectam legem statuere, & tenere, &c. Flor. Wigorn. p. 634, 635. Duncelm. p. 195. Hoved. F. 258. Chron. Joh. Bromp. p. 962.

Thirdly, That the aforesaid Authors, with Daniel p. 36. John Brompton, declare, That as the Bishops and Barons of the Realm swore Fealty to him, so he reciprocally, being required so to do by the Arch-Bishop of York, made his Personal Oath before the Altar of St. Peter to defend the Holy Church of God, and the Rectors of the same, to govern all the People subject to him justly, to establish equal Laws, and to see them duly executed.

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And when new Commotions were made by the Nobility, and Clergy, upon their Submission, and Oath of Allegiance re-taken, he himself takes his Personal Oath again before Archbishop Lanfranc, and the Lords, for the good of Peace, to observe the Ancient Laws of the Realm; established by his Predecessors the Kings of England; and especially of Edward the Confessor; and this so pacified the English, that they went joyfully to their own homes.

Lanfranco, Rex, pro bono pacis, juravit, tacitus Sacro-Sanctis Evangelis, bonas & approbatas antiquas Regni leges, quas Sancti & Pii Angliæ Reges ejus Antecessores, & maxime Edwardus statuit, inviolabiliter observare, & sic pacificari ad propria latè recesserunt. M. Paris in vitâ 23. Monach. p. 30.

Daniel p. 37.
Occurrerant
igitur Angli
memorati, ubi
post multas
discepciones,
præfente
Archiepiscopo.

Thirdly, Matthew of Westminster saith, That when the two Sons of Smain came into England to fight against it, the Conqueror recalling many of the English Nobles, made a League with them, and by their Aid he overcame the Danes. And that this League contained the Grant of their Rights and Liberties, or the Laws of their Country, is evident from what follows in the same Historian, viz. That the Conqueror being thus secured, in many things violated his promises, taking from the Churches, and Monasteries in which they lay the Charters, in which the Nobles of England confided; and to which he had sworn when he was in straits.

Et sic revocatis malis Anglorum Nobilibus, fœdere cautius cum omnibus confirmato, Eboracum, ubi fuit Danorum receptaculum, potenter cum ibi inventis, espugnavit. A. D. 1069.

Monasteria totius Angliæ persequari fecit, & pecuniam simul cum Chartis in quarum libertatibus Nobiles Angliæ confidebant, & quas Rex, in archo positus, observandum se juraverat, ab Ecclesiis, ubi in securo positæ erant, auferri præcepit violentè. Ibid. p. 226.

Fourthly, R. Hagulstadenfis, S. Dunelmensis, R. Hoveden, M. Paris, Henry of Knyghton, and W.

Legem B. Ed-
vardi vobis
reddo cum
aliis emenda-
tionibus, qui-
bus pater me-
us eas emen-
davit consilio
Baronum (ho-
rum. R. Ha-
gulf. p. 311.

Duncin. p. 225, 226. Hoved. par. 1. p. 268, M. Paris p. 38. Henr. de Knyght. p. 2374. Malmf. l. 5. F. 88. Hoc quoque precipimus, ut omnes habeant, & teneant le-
gem Edvardi Regis in omnibus rebus, adactis in quibus constituimus ad utilitatem An-
glorum. Apud Seld. Annot. ad Eadm. p. 192.

of *Malmſbury* inform us, That *Henry the first* granted to all the People the *Laws of Edward*, with the emendations which his Father had made of them, strengthening them with his own Oath, and the Oath of all his Nobles, that they might not be eluded; And *W. Lambard* cites this as one of the *Laws of W. the Conqueror*. This also we command, That all Men have, and keep the *Law of King Edward*, with the additions we have made to them for the benefit of the *English Men*.

Postea ad pre-
ces communi-
tatis Anglo-
rum Rex ad-
quieuit, qui
deprecati sunt
quatenus per-
mitteret dibi
leges propri-
as, & consue-

tudines antiquas habere in quibus vixerant patres eorum, & ipsi in iis nati & nutriti sunt; sc. *leges Sancti Edwardi*, & ex illo die magna Autoritate venerat, & per univ-
ersum Regnum corroborata, & conservata sunt præ cæteris Regni legibus, *leges R. Ed-
vardi*. Chron. Eccl. Lichfield apud Seld. ibid. p. 171.

Attali mecum
de Londoniis
leges acquisi-
mi R. Edvar-
di quas domi-
nus meus Rex
W. Authentica
esse, & per-
petuas per totum Regnum Angliæ inviolabiliter observandas, sub poenis gravissimis, pro-
clamavit, & suis justitiariis commendavit, p. 82.

Fifthly, The *Chronicle of Lichfield* doth inform us, That the whole Community of England sued to the Conqueror that he would permit them to have the proper Laws, and ancient Customs, in which their Fathers had lived, and under which they were born, and educated, viz. The *Laws of St. Edward*; And that the King consented to their Petition.

Sixthly, *Ingulphus* his Secretary, saith, That he, under the severest penalties, proclaimed, that the *Laws of King Edward* should be perpetual, authentic, and be observed inviolably thro' the whole Kingdom of Eng-
land, and as such he commended them to his Justices.

Seventhly,

Seventhly, R. Hoveden informs us, That he commanded the Laws of King Edward to be observed in all things: and that in the fourth year of his Reign, by the Counsel of his Barons, he made the Noble and Wise Men of England to be summoned throughout all the Provinces of England, that he might hear from them, who were skilled in their Law, their Rights and Customs; and that twelve Men were chosen out of every County, who swore, to their power, to tread in a right Path, neither turning to the right hand or to the left, and to make known to him the custom, and the establishments of their Laws. And then he adds the very words contained in the Chronicle of Lichfield.

W. Rex, quarto Anno Regni sui, consilio Baronum suorum, fecit summoneri per universos consularum Angliæ, Anglos Nobiles, & Sapientes, & sua lege eruditos, ut eorum & jura & consuetudines ab ipsis audiret. E-

lecti igitur de singulis totius patriæ comitatibus viri duodecim jurejurando confirmarunt primo ut, quoad possent, recto tramite, neque ad dextram neque ad sinistram partem diverterent, legum suarum consuetudinem & Sancita patefacerent. Hoved. par. post. F. 343.

Now all these things put together seem plainly to conclude an *Original Compact* or Establishment of Laws, by which the Kings of England were to govern, and the Kingdom to be governed; and the continuance, and renewal of that Establishment by our succeeding Kings; such as *Malmfbury* styles our *Patriæ Leges*, and the Statute of *Henry the Eighth*, the accustomed and ancient Laws of this Realm originally established.

Hist. Nov. F. 185. A. 25 H. 8. c. 21.

Add to this then that Rule of *Grotius*, That *Succession is not a Title of Empire which gives the form to it, but is only a continuation of the old Ti-*

Successio non est titulus Imperii, qui Imperio formam

assignat, sed veteris continuatio, jus enim ab electione ceptum, familiar succedendo continuatur, quare quantum prima electio tribuit, tantum desert successio. De jure Bell. & Pac. l. 1. c. 3. Sect. 10.

4le. *The Right begun by the Election of the Family, being continued by Succession. And thence, with him, we may reasonably infer, that Succession only brings down to Kings what the first Election gave, and makes them only Kings according to the Compact, and with the Conditions agreed on at the first admission of their Progenitors to the exercise of the Royal Authority.*

S E C T. II.

That they thought it absolutely necessary, that who-soever would be their King, should make this Compact with them, and be as much obliged by Oath to grant these Priviledges to them, as they were to swear Allegiance to him.

2dly. **O**UR Kings well knowing what a Reverence the Community had for their Laws, found no better means to gain, or to secure to themselves the Crown, and to pacifie the discontented Parties, than by fair Promises, and Engagements to maintain, or grant to them their Laws. *Eadmerus* informs us concerning *W. Rufus*, that *desiring to forestall his elder Brother Robert in getting the Kingdom, he pawned his Faith and Oath, that if they would make him King, he would in all things observe Justice, Equity, and Mercy throughout his Kingdom, and defend the Peace, Liberty, and Security of the Church against all Men.*

Cum Regni
fastigia fratri
suo Roberto
præriperet,
cepit tam per
se, quam per
omnes quos
poterat, fide,
sacramentoq;
Lausfranco pro-
mittere iusti-
tiam, æquitatem & misericordiam se per totum Regnum. si Rex foret, observaturam,
pacem, libertatem, securitatem Ecclesiarum contra omnes defensionum. p. 13.

When

When his Brother Robert was come into England to claim his right, and he had many of the Nobility who favoured him, and sided with him, *W. Rufus* calls the *Normans*, and *English Nobility* to London, & leges statuens, and there stablissing the Laws, he marched with them against his Brother, saith *Florence of Worcester*. He bound them to him, saith *M. Paris*, faciles leges promittendo, by promising them easie Laws; as those of King Edward were by them stiled, and accounted. He sweetned them, saith *John Brompton*, by promising that he would establissh meliores leges quas sibi vel-
pag. 642.
pag. 10.
pag. 984.
pag. 490, 491.
 lent eligere, those more acceptable Laws which they would chuse. Now those we know, by their request in his Fathers days, were the Laws of Edward, and they with the emendations of his Father, were the Laws then established. These Promises he very little regarded after his agreement made with his Brother Robert; but falling sick, at the suggestion of his Barons, he again promised to God, saith *Radulphus de Diceto*, Rectas leges statuere, to stabliss right Laws.

Henry the first, his Successor, in the beginning of his Reign, saith * *R. Hagulstadenfis*, gave to the People their just Laws and Liberties, confirming them with his Charter, and his Seal. *Dunelmensis*, *R. Hoveden*, *Florence of Worcester*, *W. of Malmesbury*, *M. Paris*, and *Henry of Knyghton* say, that on the very day of his † Consecration he granted to all his People the Laws of Edward, with the emendations which his Father had made of them.

* Ipse in principio Regni sui leges justas & libertates populo dedit, chartâ confirmavit, sigillo corroboravit.
 p. 310.
 † Qui consecrationis suæ die — legem

Regis Edvardi omnibus in commune reddidit cum illis emendarionibus quibus pater suus illam emendavit. *Dunelm.* p. 225, 226. *Hoveden* p. 1. F. 268. B. *Flor. Wigorn.* p. 650. *W. Malmesbur.* F. 88. *M. Paris* p. 38. *H. de Knyghton* p. 2374.

* Henry

* Pag. 216.B.
Chron. p.997.

† Henricus —
congregato
Londoniis cle-
ro Angliæ, &
populo uni-
verso, promisit
emendatio-
nem legum
quibus oppres-
sa fuerat An-
glia tempore
patris sui, &
fratris nuper
defuncti, ut
animos omni-
um in sui pro-
motionem ac-
cenderet, &
amorem, & ut
illum susci-
perent in Re-
gem & Patro-
num. Ad hæc
clero respon-
dente, & Mag-
natibus cun-
ctis, quod si
animo volente
ipsis vellet
concedere, &
charâ suâ

communire illas libertates & consuetudines antiquas quæ floruerunt in Regno tem-
pore Sancti Regis Edwardi, in ipsum consentirent, & in Regem unanimiter consecra-
rent. Henrico autem hoc libenter annuente, & se id facturum cum juramento affir-
mante, consecratus est in Regem apud Westmonasterium. p. 38.

† Ego vero Rex humilis & pacificus vos in pace in antiquis vestris libertatibus prout
crebrius iurejurando promissi gestio confovere — omnia videlicet quæ sanctus Rex Ed-
wardus, Deo inspirante, provide sancivit, inviolabiliter jubeo observari. Ibid. p.42.

* Henry of Huntington, and John Brompton say, that having promised a desirable melioration of the Laws and Customs, he was consecrated by Maurice Bishop of London. M. Paris saith most expressely, that † Henry, having assembled the Clergy, and all the People of England, that he might dispose their minds to the love and the promotion of him, and the taking him for their King, and Patron, promised them the emendation of the Laws by which England had been oppressed in the time of his Brother, and that all the Clergy and Nobility answered, That if he would freely grant to them, and confirm by his Charter those Liberties, and ancient Customs which flourished in the time of King Edward, they would unanimously consent to receive him for their King; and that upon his Consent, and Oath to do so, he was created King at Westminster. And when his Brother Robert came to challenge the Crown as his by right of Succession, and the Concord made betwixt him and his Brother Rufus, to animate his Subjects to stand by him, he speaks thus to them, * I your mild King am desirous to preserve you in your Ancient Liberties, as I have often promised upon Oath, — And command all things to be inviolably observed which holy King Edward, by the Inspiration of God, advisedly established.

Steven succeeded him, and he, to get the Kingdom, promiseth a Melioration of their Laws according to their minds. Our Historians tell us, That on the day of his Coronation he made a Compact with his Church and People, which afterwards at Oxford he swore to observe. And one of the terms of this Compact was, That he would observe good Laws, and ancient and just Customs in Hundreds, and Pleas, and other Causes.

Meliorationem legum promissit juxta voluntatem & arbitrium singulorum M. Paris p. 51. R. Hagulfstad. p. 314. 315. Chron. Jo. Brompt. p. 1024.

Bonas leges, & antiquas & justas consuetudines in Hundris & Placitis & alijs Causis observabo. Rich. Hagulfstad. p. 314.

Confirmavit Pacta quæ Deo & populo atque Ecclesie Sanctæ in die Coronationis suæ concesserat. Math. Paris p. 51.

Henry the Second follows him, at the beginning of his Reign, establishing Peace in his Kingdom, and commanding the Laws of Henry the First, his Grand-father, to be inviolably observed throughout his Kingdom.

Ipsæ pacem stabilivit in Regno, & leges Henr. Av.

sui præcepit per totum Regnum suum inviolabiliter teneri. Hoved. par. 2. F. 287. B.

Richard the first, succeeds him, and promiseth upon Oath at his Coronation these three things, viz. 1. That he would give Peace, Honour, and Reverence to God, and the Church, and her Clergy all the days of his life. 2ly, That he would exercise true Justice and Equity to the People committed to his Government. 3ly, That he would put away all

Juravit quod ipse omnibus diebus vite sue pacem, & honorem, & Reverentiam Deo, & Sanctæ

Ecclesie, & ejus ordinatis portaret. 2°. Quod rectam justitiam, & æquitatem exerceret in populo sibi commisso. 3°. Quod malas leges & consuetudines perverfas, si quæ in Regno suo inductæ sunt, deleteret, & bonas leges conderet, & sine fraude & malo ingenio, eas custodiret. Hoveden. F. 374. A. M. Paris p. 103. Rad. de Diceto Imag. Hist. p. 647. Chron. Joh. Brompt. p. 1157.

Conjuratus
est ab Archi-
episcopo ex
parte Dei, &
prohibitus ne
hunc hono-
rem accipe-
ret, nisi in
mente habeat

Sacramenta tenere quæ fecit; & ipse respondit se, per auxilium Dei, bonæ fide ob-
servaturum omnia supra dicta. Ibid.

evil Laws, and perverse Customs, which were in-
troduced into his Kingdom, and would make good
Laws, and maintain them without fraud and evil
inclination. Then the Archbishop of Canterbury
conjures him by God not to take upon him this Ho-
nour, unless he uprightly intended to perform what
he had sworn; and when he answered, That by
the help of God he intended so to do, the Arch-
bishop puts the Crown upon his Head.

King John, at his entrance on the Government,
took the same Oaths for substance which his
predecessor Richard had done, swearing to pre-
serve the Church and her Dignities from harm; to
abolish unjust Laws, and to establish Good; and to
exercise right Justice; and he was also by the
Archbishop conjured not to take upon him the
Kingly Honour, unless he really intended to per-
form his Oath. When he was absolved from his
Excommunication by the Archbishop at Winche-
ster, he was by him compelled to swear, That
he would destroy all unjust Laws; and would re-
store good Laws, viz. The Laws of King Edward,
and cause them to be observed of all throughout his
Kingdom.

In coronati-
one sua R.
Johannes tri-
plici involp-
tus est Sacra-
mento, viz.
quod Sanctam
Ecclesiam, &
ejus ordina-
tos diligeret
quod. perversis
legibus
destructis, bo-
nas constitue-

ret, & rectam justiciam in Regno Angliæ exerceret, deinde adjuratus est ab Archi-
episcopo ex parte Dei, & districte prohibitus ne honorem hunc accipere præsume-
ret nisi in mente habuit opere quod juraverat adimplere. Chron. Burton p. 256.
R. Hoveden F. 450. M. Paris p. 138.

Audistis quomodo ipse apud Wintoniam Regem absolvi, & ipsum jurare compu-
lerim quod leges iniquas destrueret, & leges bonas, viz. leges Edwardi, revocaret, &
in Regno saceret ab omnibus observari. M. Paris p. 166, 167.

King Henry the Third was but nine years old when he succeeded King John, and in the ninth year of his Reign he granted to all his Clergy, his Nobles, and his People, his Magna Charta, and his Charter of the Liberties of the Forest; and by these Charters he confirms to them *libertates & liberas consuetudines quas prius habuerant*, the Liberties and free Customs which they had before. M. Paris saith, That he exacted the fifteenth part of the Moveables, both of the Clergy, and of the Laity, and that they promised to grant them, si illi diu petitis Libertates concedere voluisset, provided he would give them the Liberties they had so long desired; And that accordingly he gave them these two Charters, which were the same that had been granted by King John. The Barons requiring a confirmation of these Liberties from the King, William Briwere, one of the King's Council, answered, That the Liberties which they demanded were not to be observed, because they were violently extorted; the King replied, All of us have sworn to these Liberties, and that which we have sworn, all of us are bound to observe; and the truth is, at the conclusion of the Peace with Lewis the King, the Legate, and Earl Marshal swore that the King should restore to the Barons, and others, all their Rights and Inheritances, with all the Liberties formerly demanded of his Father. And in the year 1225. the King again drawn with the desire of Money, grants those his Charters under his Seal, and Oaths were taken by Royal commandment to tie all Men to the observation of the said grants.

Edward the first was declared King, and Successor of his Father when absent in Palestine, and

Annales Mon.
Burton p.
271, 275.

Pag. 274.

Pag. 223.

A.D. 1225.
Speed p. 581.

Speed p. 578.

Speed p. 582.

returning into England, is Crowned in the Second year of his Reign, and in the Third calls a Parliament at *Westminster*, where he hears the complaints of the ill Government of the Realm, and the Church, and makes that wholesome Statute to relieve them which is called *the first Statute of Westminster*.

At the Coronation of Edward the Second, the Earls and Barons of the Kingdom of England treated of the State of the Kingdom, requesting the Banishment of Peter of Gaveston from the Kingdom; and that *Baronum suorum vellet consiliis tractare Regni negotia*, he would transact the business of the Kingdom by the Councils of his Barons; which the King denying to grant, the Nobles endeavoured to hinder his Coronation; which the King understanding, promised faithfully, in the next Parliament, to do that which they desired.

Hypadym.
Neustr p. 500.

Rex noluit consentire, idcirco proposuerunt comites Coronationem Regiam impedire, quod Rex intelligens promissit bona fide se facturum illis in proximo Parlamento quicquid peterent, tantum ne Coronatio differatur. Walsingh. Hist. Angl. p. 96.

At the Coronation of Richard the Second, one of the Bishops makes an Oration to the People concerning the Constitution of the King and Kingdom, how the King should behave himself to them, and in what things they were to obey him: this being done, the King swears before the Archbishop and Nobles, that he would permit the Church to enjoy her Liber-

Tunc Episcopus Sermo- nem fecit de materia Regis, & Regni ad populum; qualiter Rex se haberet in populo, & in quibus populus sibi debuit obedire, quo completo juravit Rex, coram Archiepiscopo & proceribus, quod Ecclesiam suis permetteret gaudere libertatibus, & eam, & Ministros ejus honoraret. 1°. Ut leges terræ bonas ubique observari faceret, & præcipuè leges Sancti Edvardi. 2°. Ut non esset personarum acceptor, &c. quibus expletis Archiepiscopus convertit se ad omnes plagas Ecclesiæ, indicans populo Regium juramentum, & quærens si se tali principi, & Rectori subicere, & ejus jussionibus obtemperare vellent; & responsum est à plebe — quod libenter sibi parere vellent. Wals. Hist. Angl. p. 195.

ties,

ties, and would honour her and her Ministers. 2dly, That he would cause the good Laws of the Land to be observed every where, especially those of St. Edward. 3dly, That he would be no acceptor of Persons, but would exercise right Judgment between man and man, and especially would shew Mercy. This being done, the Archbishop, the Marshal being present, turns himself to all the quarters of the Church, declaring to the People the Kings Oath, and asking them, if they could subject themselves to such a Prince and Governour, and would obey his commands; to which they all answered, That they would willingly do it.

Here then you see that William Rufus, Henry the First, and Steven, get the consent of the People by virtue of this promise to grant them their usual Laws, and ancient Customs, that Henry the First, Richard the First, and King John, and Richard the Second at their Coronation oblige themselves by Oath to grant them; And upon these Obligations the People, Nobles, Bishops, and Commons consent to own them as their King, that the Archbishops conjure R. the First, and K. John, not to take upon them the Crown, unless they uprightly intended to perform these Oaths; that all of them at the beginning of their Reigns by Oaths, or Promises oblige themselves to grant these Laws and Customs to the People, and that if any scrupled so to do, the Nobles thought it their concern to hinder his Coronation, till he had either made, or promised this engagement

They therefore thought it absolutely necessary, that whosoever would be their King, should make this Compact with them, and be as much engaged by Oath to grant these Priviledges to them, as they

they were to swear Allegiance to him, and commonly that this should be first done by their Kings before they would engage to be their Subjects. And then it must be as necessary that he who doth continue to be their King should continue to perform his Oaths, and grant these Priviledges to his People.

S E C T. III.

That when the ancient Laws of their Country were wholly violated, they constantly complain'd of the Injustice of the Action, required the observation of them; and when they could not prevail by fair means, they sought to recover their Right by Arms. Where an account is given of the Barons Wars for the preserving of the Magna Charta, and the Charta de Forestis.

FOR farther evidence of this matter, let it be considered,

3dly, That when these *Patriæ Leges*, these Ancient Laws of their Country were violated, they constantly complained of the Injustice of the Action, required the observation of them; and when they could not prevail by fair means, they revolted from their Subjection, and sought to recover their Right by Arms. This they require of *W. Rufus*, when he was sick: And it was probably for neglect of these good Laws, that *most of the Nobility*, saith *M. Paris*, did *una Rabie conspirare*, conspire against him with one fury. For the same reason was

it

it, that when Robert came against King Henry the First, a great part of the Navy went over to Robert, for this they did, saith M. Paris, *quia Rex jam Tyrannizaverat, because the King was become a Tyrant*, Page 40.
i. e. he governed not according to Law.

When Steven Archbishop of Canterbury in the year 1213, had found the Charter of Henry the First, by which he granted to them the Law of King Edward, with those emendations which his Father, by the Counsel of the Barons, did ratifie, he told the Nobles this was the Charter, by which, if they pleased, they might reduce their long lost Liberties into their former state; The Charter being read, they much rejoiced, and swore, in the presence of the Archbishop, that when they could spy out a fit time, for those Liberties, if need required, they would spend their blood; the Archbishop, on the other side, promised to help them to the uttermost of his power, and so, having made a League among themselves, they dissolved the Assembly.

When King John still neglected to observe these Laws, the Nobles come unto him, requiring him to confirm the Liberties and Laws of King Edward, and other Liberties granted to him, the Kingdom, and the Church of England, they being *leges Antiquae, & Regni consuetudines; the Ancient Laws and Customs of the Kingdom*, contained partly in the Charter of Henry the First, and partly gathered out of the old Laws of King Edward, threatening that

canz concessis, confirmari. M. Paris p. 176.

Capitula libertatum & legum quae ibi magnates confirmari querebant partim in Charta R. Henrici superius scripta sunt, partimq; ex legibus R. Edwardi antiquius excerpta—affirmantes quod, nisi Rex illas incontinenti concederet, & sigilli munimine confirmaret, ipsi per captionem castrorum suorum, terrarum, & possessionum, ipsum Regem compellerent, donec super praemissis satisfaceret competeret. M. Paris p. 176.

Per quam, si volueritis, libertates diu amissas poteritis ad statum pristinum revocare. M. Paris p. 167.

Archiepiscopus vero promissit eis fidelissimum auxilium suum pro posse suo, & sic confederatione facta inierat, colloquium solutum est. M. Paris ibid.

Pecierunt quasdam libertates, & leges R. Edwardi, cum aliis libertatibus sibi, & Regno Angliae, & Ecclesiae Angli-

if he would not instantly grant them, and confirm them under his Seal, they would compel him so to do, by seizing on his Castles, Lands, and Possessions, till he gave them competent satisfaction in that matter.

Quod nunquam tales libertates concederet unde ipse efficeretur servus, & quare cum istis iniquis exactionibus Barones non postulant Regnum. ibid.

Then the Archbishop shewed the King the Contents of that Charter; and upon the Kings answer, that he would never grant such Liberties by which he himself was made a servant; and that the Barons might as well ask the Kingdom, they betake themselves to War, and the Barons having got the City of London on their side, they write Letters to all the Earls, Barons, and Knights who adhered to the King, exhorting them, with threats, that as they loved the Indemnity of all their Goods, Possessions, deserting the perjured King, they would adhere to them faithfully, and stand immoveably with them, fighting for the Liberties, and Peace of the Kingdom.

Miserunt li-

teras ad co-

mices, Baro-

nes, & milites illos qui adhuc per Angliam Regi, licet fide, adherere videbantur, ex-

hortantes eos, cum comminatione, ut, sicut omnium Rerum suarum & possessionum

indemnitate diligebant, Regem persurum deserentes, & sibi fideliter adherentes,

simul cum eis pro libertatibus, & pace Regni immobiles starent, & efficaciter decerta-

rent. M. Paris p. 177.

Whereupon the King, finding that he was not

In ejus tempore fuerunt provisi Articuli M. Chartæ ad communem profectum Regni. p. 2424.

able to resist the strength of the Barons, without difficulty grants the Laws and Liberties they demanded, and confirmed them by his Charter. And thus it was, as Henry of Knyghton saith, that in his time were procured the Articles of Magna Charta to the common good of the Realm. And when the

Quid faciemus de isto Rege iniquo, si sic dimiserimus illum, delebit nos, & populum nostrum, expedit igitur ut deleatur à solo Regni sui, nolumus enim de cætero cum regnare super nos. Henr. de Knyght. de Event. Angl. p. 2423.

King, by the instigation of some Sons of Belial, was again perswaded to fly from his Oath and Promise, the Barons spake thus to another, *What shall we do*

with

with this wicked King? if we let him thus alone, he will destroy us, and our People; it is expedient therefore, that he should be expelled from the Throne, we will not have him any longer to Reign over us. And thereupon they send presently to Lewis the Son of the French King to come to their assistance, promising him the City of London, and their Allegiance to him. And though the Pope sent his Bull, by which he made void this Charter of the Liberties of the Kingdom of England, and writ a threatening Letter to the Barons of England upon that affair. Notwithstanding all his threats, *voluerunt desistere ab inceptis*, the Barons would not desist from their Undertakings, but rising up still against him, they vehemently annoyed him, saying; concerning the Pope, that of the Prophet, *Wo to him that justifies the wicked*. And when the Pope proceeded to Excommunicate the Barons by name, and in particular, neither would the Barons observe, nor the Prelates publish the *Excommunication*. And what the judgment of the generality of this Nation was of the whole War, we may learn not only from the general engagement both of the *Laitie* and *Clergy* in it, but also from our own *Historians*; for they inform us, That our Nobles were forced to make this War out of a double necessity, because he would not permit the *Laws* of St. Edward to be kept, as formerly they were wont to be, but did all things by his own will, nor would observe the form of the Law; but disinherited his Nobles without the judgment of their Peers.

To this effect I find, according to the custom of those times, a long Rhyme in the *Chronicle* of *Mailros*, deploring the infelicity of this Affair,

D

That

M. Paris p.
185.

Pag. 192.
Insurrexerunt
in eum Magna-
tes duplici ne-
cessitate co-
acti, eo quod
noluit permitti-
tere leges
Sancti Ed-
wardi teneri,
sed omnia fecit
in suo ves-
le, nec voluit
legis formam
observare.
Henr. de
Knyghton p.
2418.

An Historical Account

That the Body should attempt to rule the Head, and the People to be above their King; but adding, that there was a great and manifold necessity that it should be so, seeing the King perverted all the good Customs of the Kingdom, neither rightly managing Laws, Rights, or Subjects, but making that to be Justice which was agreeable to his own will, which moved them to swear they would not suffer this Tyranny of the King, and to require the Deposition of him, if he would not consent to the Reformation of the Law, and to resign the Homage they had made, till he would give them caution to preserve the Peace. And the same Annals say, the Barons only fought *pro legibus pristinis restaurandis*, for Restoration of their ancient Laws. And when the Earl of Pembroke made his Oration to the Assembled States in behalf of Henry the Third his Son, he begins it thus, * *Albeit the Father of this Prince, for his evil Demeaners, hath worthily undergone our Persecution — we ought of Duty and Conscience, to obey his Son.*

* Speed
P. 575

Ordinem præposterum Anglia sancivit,
Mirum dictu dicitur, tale quis audivit?
Nam præesse capiti corpus concupivit;
Regem suum regere populus quaesivit:
Causa tamen multiplex illud exigebat,
Nam Rex mores optimos Regni pervertebat,
Jura, leges, subditos recte non regebat,
Quicquid erat placitum summum jus crede-

(bar,

Proprios Indigenas nimis deprimebat,
Barbaros Butarios illis præponebat,
Hæredes legitimos obsides perdebat,
Quorum Adventitius terras possidebat,
Regis ad colloquium Milites citati
Cautè sibi præcauent, veniunt armati,

Jurant unanimiter jam se nolle pati,
Amplius Tyrannidem Regis tam ingrati.
Die primo veniunt juri parituri:
Rex ventre distulit nolens stare juri,
Diem ponit alterum temporis futuri:
Nec venit, sed veniunt ipsi coacturi.
Regis ergo postulant depositionem,
Legis nisi faciat emendationem,
Plenam & exhibeat certam cautionem
Pacis ad perpetuam conservationem.
Humagium quod fecerant reconfignaverunt,
Et Barones Militum causam susceperunt;
Leges tandem pristinas Regni sitientes,
Sed in Regem mittere manus non volentes.

Vide. Reliqua p. 188.

When

When Henry the Third made void the Charters of Liberties, and of the Forest, pretending they were granted whilst he was in duress, and had not the power of his Body, or of his Seal; the People presently begin to murmur, and the Barons siding with Richard Earl of Cornwal, the Kings Brother, with threats request him to do right to his Brother, sharply denouncing to him, that he should without delay restore the Charters to him sealed which he had cancelled at Oxford; and if he did not, they would compel him by the Sword to make him competent satisfaction in these matters.

In eodem Concilio fecit Rex cancellare, & cassare omnes Chartas in

provinciis omnibus Angliæ de libertatibus Forestæ, hanc occasionem prætextens quod Chartæ illæ concessæ fuerant, & libertates scriptæ, & signatæ, dum ipse erat in custodia, nec sui corporis, aut sigilli aliquam habuit potestatem. M. Paris p. 232.

Sin autem, ipsi illum gladiis discurrentibus compellerent ut sibi super his satisfaceret competenter. M. Paris p. 233.

A. D. 1233. the King invites over the Poitouvins, and other Strangers, who, with the Bishop of Winton oppress the Nobles with all their power, and cause great discord and complaints; For judgments were committed, saith M. Paris, to the unjust, the Laws to them who were Outlaw'd, Peace to those who were given to Discord, and Justice to the Injurious. These things so exasperate the Nobility, that they Combine for Defence of the publick; and by Richard his Brother, and the Earl Marshal, humbly request of the King, that he would speedily correct these excesses which tended to the subversion of his Crown and Kingdom, to the op-

Judicia committuntur injustis, leges exlegibus, pax discordantibus, justitia injuriis. p. 263.

Regem humiliter rogabat, ut tales excess-

sus corrigere festineret, per quos Coronæ suæ, & Regni subversio imminerebat, affirmabat insuper quod si hoc emendare disjiceret, ipse, & ceteri de Regno Magnates, tamdiu se ab ipsius consilio subtraherent, quamdiu alienigenarum consorcio frueretur. M. Paris p. 264.

An Historical Account

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mittuntur in-
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Regem humi-
liter rogabat,
ut tales exceſ-
sus corrigere festinet,

pression of his natural People, and of their Laws and Liberties, and that if he would not reform them, they would withdraw themselves from his Council.

Whereunto the Bishop of Winchester replies, That it was lawful for the King to call what strangers he listed about him for Defence of his Crown and Kingdom, thereby to compel his proud and rebellious Subjects to their Obedience; with which Answer they were so incensed, that they promised each other in this cause, which concerned them all, they would spend their lives.

Firmiter promiserunt ad invicem quod pro hac causa, quæ omnes tangebatur, usque ad divisionem corporis & animæ viriliter decertarent. Matth. Paris ibid.

Then the King Summons them to a Parliament at Oxford, to which they would not come, and after this to another at Westminster; they sending him this Message, That he should suddenly remove Peter Bishop of Winton, and his Poitevins; and that if he would not do this, they all, by the Common-Counsel of the whole Kingdom, would expel him with his evil Counsellors out of the Kingdom, and consult about the creation of a new King.

Sin autem nollet, ipsi omnes de communi con-

silio totius Regni ipsum, cum iniquis consiliariis suis, à Regno. depellerent, & de novo Rege creando contraherent. M. Paris. p. 265.

A. D. 1234. A Parliament is Assembled at Westminster, in which indeed the Bishop of Chester Excommunicates all them who were designing
alium

alium Regem creare, to create another King; yet doth the Archbishop Elect, and his Suffragans roundly declare against the cruel and dangerous Practices of Peter Bishop of Winton, and Peter de Rivalis. First, Because they suggested, that the English were Traytors, and alienated the Kings heart from the Marshal, who was the best Man in the Land. So that, in their judgment, they that fought, and were then in Arms for their Laws and Liberties, were so far from being Traytors, that they were the best Men of the Nation. Secondly, That there was cause to fear the Ruine both of King and Kingdom, since they had got such an Ascendent over him, that he seemed rather to be under their power, than they under his. Which also seems to have been the case betwixt King James and his Jesuites. Thirdly, That they confounded, and perverted the Law of the Land sworn to, and confirmed, and strengthened by Excommunication, and with that all Justice; by reason of which, and many other grievances, they humbly besought him to govern his People, according to the example of other Nations; by the sworn Natives of his Kingdom, declaring that if he did not correct these miscarriages in a little time, they would proceed by Ecclesiastical Censure both against his Counsellors and himself.

M. Paris
p. 271.

Vocantes eos
proditores, &
facientes om-
nes sic voca-
ri — qui me-
lior est homo
terra vestra.
p. 271.

Tinendum est
tam de vobis,
quam de Reg.
no, cum vi-
deamini ma-
gis esse in eo-
rum potesta-
te, quam ipsi
in vestra. Ibid.

Item legem
terra jura-
tam, & con-
firmatam at-

que per excommunicationem roboratam, pariter & iustitiam confundunt, & pervertunt. Ibid.

Nisi, infra breve tempus, ista correxeritis, in vos, & in omnes alios contradictores, per censuram Ecclesiasticam procedemus. p. 272.

Edmund Archbishop Elect of Canterbury, being soon after consecrated, comes to the King with his

his Bishops and Prelates, relates again the same grievances, declaring to him, That if he would not correct, and pacifically compose these things with his Liege People, he, with his Prelates, would denounce the Sentence of Excommunication against him and all the Enemies of this Concord. Upon which the King is, at last, prevailed with to remand the Bishop of Winton to his Cure, to banish *Peter de Rivalis* from the Court, and the *Poitouvins* from the Kingdom.

Denuntiavit
etiam ipsi ex-
presse quod,
nisi Clericus
errorem de-

mitteret, & cum fidelibus Regni sui pacifice componeret, ipse — cum omnibus Prelatis qui aderant, in ipsum Regem sententiam ferret excommunicationis, & in omnes alios hujus pacis-contradictores. *Ibid.*

One thing more is observable in this matter, that as the War of the Marshal was generally thought just, so the Marshal justifies himself to have been no Traytor, as being *always ready to stand to the judgment of his Peers*, and being exiled, and deprived of his Offices and Lands against Law, *for which cause, saith he, I ceased to be the Kings Liege Man, and was absolved from my Homage not by my self, but by the King.*

Unde homo
suus non fui,
sed ab ipsius
Homagio non

per me, sed per seipsum licenter absolvebar. p. 273.

A. D. 1237. A Parliament is held at *London*, in which the King requests, in regard of the great expence for his *Sisters Marriage*, the thirtieth part of all Moveables both of the *Clergy* and the *Laity*. After great opposition made to this demand, and the recital of many supposed miscarriages, the King disavowing, and protesting against his former Revocation, *and freely granting*

ing the inviolable observation of the Liberties, under pain of Excommunication, hath yielded to him the thirtieth part of all moveables.

Spontanea
promisit vo-
luntate liber-

tates M. Chartz suis fidelibus Regni sui ex tunc inviolabiliter observare, &c. Matth. Paris p. 298.

In the year 1240. the Archbishops, Bishops, and many of the Nobles, assembled at London, grievously complain of divers Injuries, Oppressions, and Desolations which befell the Church by the evil Counsel of the King, violating his Charters, and his Oaths, after he had so often sworn that he would preserve the Ecclesiastical Rights inviolated, and himself held a Candle when the Bishops in his hearing pronounced the Sentence of Excommunication against all the Violaters of the Ecclesiastical Liberties, he then extinguishing his Candle with the rest.

Reponentes
querimoniam
gravissimam
coram Rege,
in curia sua,
super variis
inuriis, & op-
pressionibus,
& quotidianis

desolationibus illatis Ecclesie per iniquum Regis consilium, contra Chartas suas, & juramenta temere veniendo, — cum ipse Rex toties juraverat se jura Ecclesiastica illibata conservare, ipsemet audiente, & Candelam tenente, quod omnes Episcopi in violatores libertatum Ecclesiasticarum simul sententiam fulminabant, in cujus sententiae consummatione, Rex, ut alii, suam Candelam extinxit inclinando. M. Paris p. 354.

In the year 1242. the King requests farther Supplies of his Parliament held at Westminster for his intended expedition into France. But they resolutely deny to give him any, for that, in order to the obtaining former grants of Money, he

Et præterea
concessit eis
tunc quod
omnes liber-
tates contine-

in M. Charta ex tunc in antea plenius tenebantur per totum Regnum suum, & inde fecit eis quandam parvam Chartam quam adhuc habent, in qua eadem continentur — & quia dominus Rex nunquam post tricesimam datam Chartam suam de libertatibus tenuit. Ibid. p. 394.

had

had promised and granted to them that all the Liberties contained in Magna Charta, should from thence be fully observed through the Kingdom, and had given them a little Charter in which they were contained; and yet, after all, he never was true to his word, but oppressed them still more.

In the year 1244. he desires new Supplies, which for a time they refuse, pleading that the Charter of Liberties which the King had granted, and the Archbishop had upon Oath in the King's name promised to them, was not observed. Though at last, upon the King's faithful Promise to keep and observe the Liberties unto which he had sworn at his Coronation, and whereof he had granted his Charter, and upon the appointment of four Noble Men to be of the King's Council, who should be conservatores libertatum, Keepers of their Liberties, they grant him new Supplies; the King then promising himself to observe them, and requesting that for the defence of their Liberties, all the Bishops in their Diocesses should pronounce Sentence against him, and all who violated the said Liberties in any Article of them. And thus they agreed to grant him a Supply.

Et quia Charta libertatum quas dominus Rex olim concesserat, & pro ejus conservatione Archiepiscopus Cant. Edmundus juraverat, & fide-juravit, & certissime pro Rege promiserat, nondum existit observata. Matth. Paris p. 432.

Rex tam in propria persona, tum per internuncios solennes, promisit se libertates quas juraverat in Coronatione sua, super quibus Chartam fecerat, integerrime servaturum, ad quarum etiam tuitionem rogavit ut singuli Episcopi, in Diocesis suis sententiam ferrent in ipsam, & omnes qui contra memoratas libertates venirent in aliquo Articulo. M. Paris p. 435.

In the year 1252. he holds a Parliament at London, and requires more Money; and they, after some consultation answer, that though the King had much oppressed both Church and Kingdom, they would

would doe their utmost to satisfie his desires, provided that, as he had often promised, he would now at last inviolably observe the Charter of their Liberties, so often covenanted and sworn to. Other things they demanded then, which the King would by no means agree to, swearing horribly, that whilst he lived * he never would be reduced into such slavery: And so the Assembly breaks up, producing nothing but the King's Wrath.

quantum-
cunq; Ecclesi-
am Anglica-
nam, & Reg-
num suum
Angliæ oppre-
sserit; & afflix-
erit quod
postulat à no-
bis adhuc im-
pendemus, &
desiderio suo,
pro posse, ob-
secundabi-

mur, si quod multoties promissit, velit Chartam toties pactam, totiesq; debitam, Liber-
tatum nobis juratarum inviolabiliter posthac observare. p. 368. Nunquam in talem
mergeretur Servitutem. Ibid. p. 370.

In the Year 1253. was assembled a very great Parliament, in which the Arch-Bishop, and some Bishops, are sent to induce the King to permit H. Church to enjoy her Liberties, as he had oft promised upon Oath, and declaring, that if he would correct this, and other of his miscarriages, according to the Tenor of M. Charta, they would incline to his Petition, how burthen some soever it might be to them: This the King promiseth to doe, and desires them to assist him in it; so the Clergy grant him a Tenth, and the Knights Scutage, viz, three Marks of every Knights Fee for that year, and the King promiseth faithfully, and without cavil to ratifie

Quod si hunc, & alios errores, secundum M. Chartæ de Libertatibus confectæ tenorem emendaret, ipsi, usque ad gravamen magnum, Petitionibus suis inclinarent, &c. p. 379.

Rex bonæ fide, & sine aliqua cavillatione, promississe

Chartam Magnam, & omnes ejus Articulos fideliter observaturum, quam Rex Johannes tenere juravit, & similiter qui præsens est, in susceptione Coronæ, & postea multoties. Ibid.

Magna Charta, and faithfully to observe all the Articles of it, which *King John*, and he, at his *Coronation*, and often since, had sworn to observe. And this is done in the most solemn and ceremonial manner that could be devised; for the *King*, with all the great *Nobility of England*, all the *Bishops* and chief *Prelates* in their *Ornaments*, with burning *Candles* in their hands, assemble to hear the terrible sentence of *Excommunication* upon all the *Infringers of the same*; and at the lighting of those *Candles*, the *King*, having one in his hand, gives it

Nondecet me Candelam talem tenere, sum non enim Sacerdos; Cor autem majus perhibet Testimonium; & ex tunc tenuit manum expansam ad Pectus, donec tota sententia finiretur. p. 580.

to one of the *Prelates*, saying, *It becomes not me, who am no Priest, to hold this Candle; my Heart shall be a greater testimony; and withall laid his hand on his Breast the whole time the sentence was read, which was thus pro-*

nounced: In the name of the Omnipotent God, &c. Which done, he caused the Charter of King John his Father to be read: In the end, having thrown away their Candles, they cried out, So let them who incur this sentence be extinct, and sink in Hell. And the King with a loud voice said, "As God help me, I will, as a Man, a Christian, a Knight, a King Crowned and Anointed, inviolably observe all these things. But notwithstanding all this, in the very next year the King, by the counsels of some wicked men, is wrought upon to infringe again this Charter, hoping for a gift so obtain an absolution from his Oath.

* Dixit ipse Rex, Sic me Deus adjuvet, hæc omnia illibata observabo fideliter, sicut sum homo, sicut sum Christianus, sicut sum miles, & sicut

sum Rex Coronatus & Inunctus, &c. *M. Paris*, p. 580. Idem Rex, consiliis malignorum præventus, eandem infringendo contravenire non formidavit, credens promovere absolvi à transgressionem. p. 597.

In the next year a *Parliament* is called, which yields nothing but grievous Complaints for breach of *M. Charta*, and Promises of supply provided it may be again confirmed, and the electing the *Justiciar*, the *Chancellor*, and *Treasurer* put into their hands; to which the *King* would not yield: But though the *King* would not observe it, *M. Paris* saith, it was cryed in all Countries, and denounced in all Synods, Churches, and publick resort, that *M. Charta* should be inviolably observed, and the sentence of Excommunication is denounced against all the violaters of it.

Diebus autem istis acclamatum est in conciliis, & nunciatum est in Synodis, in Ecclesiis, & ubicumque locorum homines convenerant, ut *M. Charta* inviolabiliter teneretur, quam *R. Johannes* concesserat, & iste Rex praefens multoties concessit; & lata est sententia solenniter in omnes ejusdem violatores. *Ibid.* p. 609.

corum homines convenerant, ut *M. Charta* inviolabiliter teneretur, quam *R. Johannes* concesserat, & iste Rex praefens multoties concessit; & lata est sententia solenniter in omnes ejusdem violatores. *Ibid.* p. 609.

In the Year 1256. Provision is again made *sub pena horribilis Anathematis*, under the penalty of an horrible Anathema, that the *M. Charta* of *King John* should be observed.

In the Year 1257. The *King* requests an Aid for his Son *Edmund*, for the acquiring the *Kingdom* of *Sicily*, and after many excuses, upon condition that the *King* would observe *M. Charta* so often promised, and bought, they tender 52000. Marks, with which the *King* was not satisfied.

Et tamen conditione addita, ut

M. Chartam, toties promissam, emptam, & redemptam, ex tunc inviolabiliter observaret, &c. p. 637.

In the Year 1258. was held the *Parliament* at *Oxford* where the *Nobles* enter into an unchangeable League

Parlamento
incipiente. so-
lidabatur Mag-
natum propo-
situm & con-
siliu immu-
tabile, exigen-
do constantis-
sime ut Domi-
nus Rex Char-
tam Libertat-
um Angliæ,
quam Johan-
nes Rex Angliæ

concessit—fi-
deliter teneat, & conservet—exigebant insuper sibi fieri Justiciarum, &c. —
Quod Rex recognoscens, graviter juravit consiliis eorum obsecundare, & Edwardus
filius ejus eodem est juramento adstrictus. p. 653.

Rex coactus est corporale præstare Sacramentum, cum omnibus ferè post jurantibus
illud idem. Hyp. Neustr. p. 467.

Rogabant hu-
militer ut
communiter
præstitum ju-
ramentum in-
violabiliter
observare vel-
let. Contin. M.
Par. p. 567.

Ibid.

But notwithstanding this, the *King* gets an abso-
lution from his Oath of the *Pope*. Of this the
Barons hearing, humbly beseech him to perform the
Oath publickly sworn; but the *King* answering them
with threats, the business is deferred till the coming
of *Prince Edward*; who coming, sides with the
Barons, according to his Oath, and a League is
made betwixt them to apprehend the *King's Evil*
Counsellors, and their *Abettors*, and to endeavour
to remove them from the *King*.

In the Year 1263. The contest betwixt the *King*,
and the *Barons* is referred to the mediation of the
French King, who annuls the provisions of *Oxford*,
but with this exception, That the *Ancient Charter* of
King John, granted to the *Community*, should in no-
thing be thereby impaired.

Hoc excepto,
quod Anti-
quæ Chartæ

R. Johannis Angliæ Universitati concessa, per illam sententiam in nullo intende-
bat penitus derogare. p. 668.

Then

Then began the *Barons Wars* under *Simon of Monfort*, who succeeded so far in them, as to take the *King* and his *Son Prisoners*. But afterwards the *Prince* escaping out of Prison, fights with *Simon*, and overthrows him at *Evesham*, where he was slain.

And here it is to be observed, that none of the *Historians* of those times will permit this *Simon* to be called a *Rebel*, or a *Traitor*, but they still represent him as a most devout servant of God and the Church, and a most faithful Protector, Shield, and Defender of the Kingdom of England, and even a Martyr for the Liberties of Church, and State.

Scilendum,
quod nemo
sani capitis
debet cen-
sere, neq;
appellare Si-
monem nomi-

no Proditoris; non enim fuit Proditor, sed Dei Ecclesie in Anglia devotissimus Cultor, & Haereticus Prosector, Regni Anglorum Securum & Defensor. *Chron. de Mail.* p. 228.

After the end of these Wars, in the Year 1269. the King calls a Parliament to be held at *Marlborough*, where the Statutes called the Statutes

M. Par. Cont.
p. 677.

of *Marlborough* were Enacted, in the Fifth Chapter of which it is decreed, That the Great Charter, and the Charter de Foresta shall be observed in all their Articles, both concerning the King, and his Subjects. And here, saith the Lord Coke, it is to be observed, that after this Parliament neither M. Charta, nor Charta de Foresta was ever attempted to be impugned, or questioned, whereupon Peace and Tranquillity have ever since ensued.

Magna Charta in singulis suis Articulis teneatur, tam in his quae ad Regem pertinent, quam quae ad alios: Similiter Charta de Foresta.

Inst. 1.2.p.102.

Edward

Confirm.
Chart. c. 1.

Chap. 3.

Chap. 4.

Edward the First, in the twenty fifth year of his *Reign*, confirms the said *Charters* of the *Liberties* of *England*, and of the *Forest*, and declares 'they are to be holden for *Common Law*, requires that they should be held in every point, that they should be sent under the *Great Seal*, to all his *Justices*, as well of the *Forest* as others, proclaimed by the *Sheriff* of the *County*; and that all *Justices*, *Sheriffs*, *Mayors*, and other *Ministers*, which under the *King* had the *Laws* to guide them, should allow the said *Charters* in all their points, which in any *Plea* shall come before them in *Judgment*, and that the said *Charters* should be sent to all the *Cathedrals* within the *Realm*: and should be read twice a year before the *People*, and that the *Arch Bishops*, and *Bishops*, should denounce the *Sentence* of *Excommunication* against all them who, in *Word*, or *Deed*, did act against the said *Charters*, and these *Sentences* shall be pronounced, and published twice in the year by the said *Prelates*.

And because, in the sixth Chapter of the said *Act*, there was added this clause, *Savez les auncient aides & prises, dues & accoustomes*, which gave some colour for the *King's Officers* to make an *Evasion*, the *Lords of Parliament*, met in the twenty eighth year of his *Reign*, do importune the *King* again to confirm the said *Charters*, which he promised to doe; but when it came to be set down in form of an *Act*, the *King* would have added, *A saving of the Right of his Crown*, which the *Lords* did mainly inveigh against, and pressed the *King* with his promise to confirm

confirm them as absolutely as his *Father Henry 3.* had done; which, in the end, he yielded to, as appears by the *Act*, called *Articuli super Chartas*, where Chap. 1. these *Charters* are again confirmed; and 'tis provided that they shall be read *four times every year before the People in every County after the Feast of St. Michael, and after the Feast of the Nativity of our Saviour, after Easter, and after the Nativity of St. John the Baptist.*

When the *King* had ended his Wars in *Scotland*, he refused to stand to the confirmation which he had made to his *Barons*, of such *Laws and Liberties* as he before had granted, pretending that they had forced his consent, and he obtained of the *Pope* an *absolution* from the *Oath* which he unwillingly had taken to observe them. But when great murmuring, and discontent followed hereupon, and for his levying *Taxes* without consent of *Parliament*, in his *thirty fourth year* he makes the *Statute de Tallagio non concedendo*, for the quieting of the *Commons*, and for a perpetual *Law* for ever after; declaring, That no *Aid* or *Taxes* shall from thenceforth be levied without their consent, and making a general restitution to the *Subjects* of all their *Laws, Liberties, and free Customes*, as freely, and wholly, as at any time before in the better and fuller manner they used to have the same; and so ended all the disputes touching these *Charters*.

Obeinuit Rex à Domino Papa
absolutionem à juramento, quod
inivus præstiterat super obser-
vantia Libertatum alias à Co-
mibus & Baronibus exactarum.
Walsingham. p. 92.

Walsingham

Page 71, 72.

Walsingham saith, that the Grievances which the Arch-Bishops, Bishops, Abbats, Priors, Earls, and Barons, with the whole Commonalty, remonstrated to the King were these, viz.

First, That they were not dealt with according to the Laws and Customs of the Land, according to which their Ancestors used to be governed.

Secondly, That the Articles of M. Charta were neglected, to the great damage of the whole Community.

Thirdly, That the Assize, and Charter of the Forest was not observed; and then he adds, that the Nobles would consent to no other form of Peate with the King, than that which he established in the Statute, de Tallagio non concedendo, and which I have now set down.

There is one thing more very observable in the Reign of that King, that when the Pope had summoned him before him to answer touching his Right to the Kingdom of Scotland, a Parliament then held at Lincoln, answer the Pope thus, That their King should not answer judicially before the Pope, nor undergo his Judgment for his Rights of the Kingdom of Scotland, or any other Temporal Rights,

Papa R. Edwardum primum in iudicium vocante, respondet Parliamentum

Lincolniæ ha-

bitum, quod præfatus Dominus noster Rex, super iuribus Regni Scotiæ, aut aliis suis temporalibus, nullatenus respondeat judicialiter coram vobis, nec iudicium subeat quoquomodo — cum præmissa caderent manifestè in exheredationem iurii

because

because this manifestly tended to the dismembering of the said Crown, and the R. Dignity, and the subversion of the said Kingdom, and of the Liberties, Customs, and Paternal Laws, to the defence of which they were by their Oath obliged, and with their whole power would defend; and were the King never so willing, they, as they ought not, so they would not permit the King to attempt the Premises. When King Richard the Second asked of Sir Robert Trifilian, and his other Lawyers, whether he might not Dissolve the Decrees of the last Parliament, and they had answered that he might, **BECAUSE HE WAS ABOVE THE LAWS**, as one of them confessed, he deserved death for that Answer, so all them, that could be caught, soon after found it.

Coronæ Regiæ Angliæ, & R. Dignitatis, ac Subversionem Statuti ejusdem Regni notoriam, necnon in præjudicium Libertatis, Consuetudinum, & Legum paternarum, ad quarum observationem, & defensionem, ex debito præstiti juramenti, adstringimur, & quæ manu tenebimus toto posse, & totis viribus, cum Dei auxilio, defendemus; nec etiam permittimus, aut aliquammodo permittimus, sicut nec possumus nec debemus, præmissa tam insolita, indebita, præjudicialia, & alias insaudita, præstibatur Dominum. Noscum Regem, etiam si veller, facere, seu modo, quolibet attemptare. Walsingham. Hist. p. 84. Hypod. Nupt. p. 496. Speed p. 731

Farthermore, Let it be observed, that the Nobility of England, as the Lord Coke observes, have ever had the Laws of England in great Estimation and Reverence, and would never suffer them to be changed. This made King Henry the First, saith he, to write to Pope Paschal thus: *Let your Holiness know, that, by the help of God, whilst I live, the*

Infra, quod, me vivente, auxiliante Deo, Dignitates & Usus Regni nostri Angliæ non imminuentur; & si ego, quod absit, in tanta dejectione me ponerem, Optimates mei, & totus Angliæ populus, id nullo modo pateretur. Charta Henr. primi.

Dignities, and Customs of our Kingdom of England shall not be diminished; and if I, which God forbid, should so far defect my self, my Nobles, and all the people of England would never suffer them to be altered.

When the Bishops, in the twentieth year of Henry the Third, would have those Children who were born before Matrimony Legitimate, as to Hereditary Succession, as well as those who were born after Matrimony, all the Earls and Barons answer with one voice, *We will not have the Laws of England, which have hitherto been used and approved, to be changed.*

Et omnes Comes & Barones una voce responderunt, quod nolunt

Leges Angliæ mutare quæ hucque usitate & approbate sunt. Stat. Mert. c. 9. Brafton. l. 3. c. 19. F. 417.

In the Letters which all the Nobility of England, by Assent of the whole Commonalty, assembled in Parliament at Lincoln, wrote to Pope Boniface, we find these words. By virtue of our Oath we are bound to the Observation and Defence of the Liberties, Customs, and Paternal Laws, which by the help of God we will defend without whole Power; nor do we, nor will we permit our Lord the King, though he were willing, to attempt things so unusual, undue, and prejudicial to the Royal Dignity: and this was Sealed by 104 Earls, and Barons in the name of all the Commonalty of England.

Ad Observationem & Defensionem Libertatum, consuetudinum, & Legum patrum, ex debito precii Sacramenti adstringimur, quæ manu tenebimus toto posse, totiusque viribus, cum

Dei auxilio defendemus, nec etiam permitimus, nec aliquatenus permittemus, sicut nec possumus, nec debemus, præmissa tam insolita, indebita, præjudicialia, & alias inaudita, Dominum nostrum Regem, etiam si vellet facere, seu quomodo libet attemptare. Rot. Parl. 28, Ed. 1, apud Lincoln.

What

What they affirm touching their Oaths to defend their Laws, is an unquestionable truth; for besides what hath been noted of this kind already, in the twenty fifth year of this King, it was established by Act of Parliament, that if any Statute were made contrary to *Magna Charta*, or *Charta de Forestis*, it should be holden for none; and the Nobles, and the great Officers were sworn to the Observation of them: Yea, by the Royal Command of *Henry the Third*, Oaths were taken to tye all men to the strict Observation of them.

25. Ed. 1. c. 3.
42. Ed. 3. c. 1.

Spel p. 582.

SECT. IV.

That we find throughout the History of our Kings, that their Election, or else their Compact with the People, hath generally been conceived a thing proper to strengthen their Title to the Crown, or at the least to satisfy their People.

4ly, **I**T may be farther worthy of our consideration, that we find throughout the *History* of our *Kings* that their *Election*, or else their *Compact* with the people, hath generally been looked on, as a thing proper to strengthen their Title to the *Crown*, or at the least to satisfy the People. For instance,

Dunelm. p.
195. Hoved.
E. 258.
Ab omnibus
tam Norman-
norum, quam
Anglorum
Proceribus

Rex est electus. Gemit. de Ducibus Norm. l. 6. c. 37. Walsing. Hypod. Neust. p. 436.

Daniel p. 52.
Polyd. Virg.
Hist. l. 10. p.
164.

Volenti-
bus omnium
provincialium
animis in Re-
gem acceptus.
M. Par. p. 10.
Chron. Joh.
Brompt. p.
983, 984.

First, Of the Conqueror S. Dunelmensis, and Hoveden inform us, that *Fædus pepigit, he made a Covenant with the people: Gulielmus Gemiticensis, and Walsingham, say, that he was chosen King by all the Nobles of England and Normandy.*

Secondly, William the Second held the possession of the Crown of England by the Will of the Kingdom, the Succession in Right of Primogeniture being none of his. The Historians say, that the Nobles met in Council at Westminster, and after long Consultation made him King; that by the willing minds of all he was accepted for their King, and the King himself declares, *quod ipsam in Regem creaverant*, that they had created him King.

Thirdly, Henry the First was invested in the Crown by the Act of the Kingdom. The Historians tell us

Unanimi ascensu suo ipsum
refutaverunt, & pro rege om-
nino recusaverunt, & Henricum
fratrem in Regem elegerunt.
Knyght. de Event. Angl. p.
2374. In Regem electus est
frater ejus Henricus, & conse-
cratus est Rex Angl. M. Westm.
Hist. p. 235. In Regem electus
est, aliquantisper tamen controver-
sis inter Proceres excitatis, &
Sopitis. W. Malmsh. l. 5. F. 88.
J. Brompt. Chron. p. 997. Wal-
sing. Hypod. Neust. p. 446. Rich.
Hagult. p. 310.

Ne mentes Procerum electio-
nis qualisarentur poritutine, F.
88.

that a Council of the whole Community rejected Robert, the eldest Son of the Conqueror, and would not have him for their King; but with unanimous consent, they advanced his Brother Henry to the Kingdom, who was by all Elected, and Consecrated King at Westminster, after the death of William Rufus, as being the first born of the Conqueror, after he was King of England. William of Malmshury saith, he was Consecrated within four days after his Brother's death, lest the Rumour of Robert's coming to England,

gland, should move the Nobles to repent of their Election: And in his Charters, the King himself writes thus; Know you that I was Crowned King of England by the Common Council of the Barons of the Kingdom: And 'tis observable, that his Elder Brother Robert being absent at the Holy Wars, they chose Henry King, because they were affraid to be long without Government.

Sciatis me Dei misericordia, & communi consilio Baronum Regni Angliæ, ejusdem Regni Regem esse coronatum. M. Paris, pag. 38.

Fourthly, Florence of Worcester, William of Malmshury, R. Hoveden, and R. Hagulstadenfis, do expressly say, that Stephen was chosen King by the Primates of the Kingdom, with the favour of the Clergy, and Laity; and that he took upon him the Kingdom with their General consent; and his own Charters say the same thing, as they had reason to do, he having no Title at all, but as one of the Bloud, by mere Election advanced to the Crown.

A Primoribus Regni, cum favore Cleri & Populi, electus. R. Hagulst. p. 312. Flor. Wigorn. p. 665. Hoved. F. 215. Malmsh. F. 101. B.

Ascensu Populi & Cleri in Regem electus. Malmsh. Hist. Nov. l. 1. F. 101. B. R. Hagulst. p. 314.

Daniel, p. 69.

Fifthly, Radulphus de Dicefo, Saith of Henry the Second, That he was Elected by all; and annointed by Theobald, Arch-Bishop of Canterbury:

Ab omnibus electus, p. 529.

Sixthly, And of Richard the First he saith, That being to be promoted to be King by right of Succession, after the solemn and due Election, both of the Clergy, and Laity, he took a Threesfold Oath. Hoveden adds, that he was Consecrated, and Crowned King of England, consilio & assensu, by the Council and assent of the Arch-Bishops, Bishops, Counts, and Barons.

Post tum Cleri & Populi Solennem & debitam Electionem. p. 647.

F. 374.

Seventhly;

P. 127.
 Archiepiscopus dixit,
 quod nullus
 pravia rati-
 one alij succe-
 dere habet
 Regnum, nisi
 ab universita-
 te Regni una-

nimiter, Spi-
 ritus Sancti invocata gratia, electus, & secundum morum eminentiam præelectus,
 omnes hoc acceptabant, ipsumque Comitum in Regem eligentes, & assumentes, ex-
 clamant, dicentes, Vivat Rex. Matth. Paris, p. 138.

Seventhly, King John received the Crown by way
 of Election; as being chosen by the States, saith
 Daniel. Matthew Paris saith, That all consented
 to the Speech of the Arch-Bishop, that none ought to
 Succeed another in the Kingdom, unless he were elected
 by the Community, and thereupon they elected the
 Count, and took him for their King.

In Regem eli-
 gitur. p. 474.

Eightly, The History of Croyland saith, That
 after the death of King John, Henry, his first born,
 was elected King.

Non tam jure
 hæreditario
 quam unani-
 mi assensu
 Procerum, &
 Magnatum.

Edward Franc. An. 1602. p. 95.

Ninthly, The Succession of Edward the Second,
 saith Walsingham, Was not so much by right of Inheri-
 tance, as by the unanimous consent of the Peers, and
 great Men.

Walsing. Hist.
 Angl. p. 126.
 Hypod. Neust.
 p. 508, 509.
 H. de Knygh-
 ton, p. 2550.

Tenthly, Edward the Third was elected with
 the Universal consent of the People upon his Father's
 Resignation: The Parliament then met at London,
 declared by common consent, That Edward the Second
 was unworthy of the Crown, and for many Causes
 to be deposed, and that his first born Son Edward
 should unanimously be chosen King; then the E-
 lection is publicly declared in Westminster-hall,
 some of both Houses are sent to Edward the Second,
 qui nunciarent Electionem filij sui, who should acquaint
 him with the Election of his Son, and require him to
 resign the Crown; Electioni consensit populus uni-
 versus,

versus, all the people consented to the Election; so did all the Prelates, and the Arch-Bishop, who made an Oration on those words, Vox populi vox Dei, and ex-
 ported all to pray for the King Elect.

Eleventhly, Richard the Second succeeded Edward by right of Succession, ac etiam voto com-
 muni singulorum, and by the Common suffrage of all. H. de Knyght. p. 2630.

Twelfthly, Henry the Fourth, Fifth, and Sixth were only Kings by Act of Parliament.

Thirteenthly, Edward the Fourth, at his entrance on the Government, makes a solemn Declaration of his Right to the Crown of England, challenging it to belong unto him by a double Right, the first as Son and Heir to Richard Duke of York, the Rightfull Heir of the same; the second as elected by the Authority of the Parliament, upon King Henry's forfeit of it. Trussell. 179.

Fourteenthly, The Parliament Roll published in Speed's Chronicle often saith, That they had chosen Richard the Third for their King, and that the Crown belonged to him as well by Election as Succession. p. 913, 914.

Fifteenthly, And Henry the Seventh, to all his other Titles by Marriage, Conquest, and from the House of Lancaster, adds that of the Authority of Parliament. Bacon. Hist. of Hen. VII. p. 12.

SECT. V.

That we find mention in History of divers Acts of Parliament, or of the Nobles of the Kingdom, continuing the Name and Honour of a King to him, who, by their own confession, had not the immediate Title to the Kingdom, and only Proclaiming him, who had the Right by Proximity of Bloud, Heir Apparent to the Crown.

51. **M**oreover we read of divers Acts of Parliament, or of the Nobles of the Kingdom, continuing the Name and Honour of a King to him, who, by their own Confession, had not the just Title, and only Proclaiming him, who had the Right by proximity of Bloud, Heir apparent to the Crown: For instance,

Ad hæc etiam inter se constituerunt, ut si comes absq; filio legali in Matrimonio genito mortetur, hæres ejus esset Rex; modoq; per omnia simili, si Regi contigisset mori, hæres illius fieret Comes, hanc conventionem, 12 ex parte Regis, & 13 ex parte Comitum Barones Juramento firmaverunt. Flor Wigorn. p. 644.

The Contest betwixt Robert the Eldest Son of the Conquerour, and William Rufus his younger Brother, ended thus, That if Robert dyed without a Lawfull Son, King William should be his Heir, and if King William dyed without issue, Robert should be his Heir; and this was Sworn to by twelve Barons of each side.

In the contest betwixt the same Robert, and his younger Brother Henry, the Princes, say some of our Historians, the wise men of our Kingdom, say others, made a Mutual, and general League of Concord, by their Pious, and Wise Council; That Henry the First, being invested with the Crown by Act of the Kingdom, should enjoy the same during life, and that by reason of the manifest Right which Robert had to the Kingdom; Henry should pay him 3000 Marks yearly, and that the longest liver should be Heir to the other, if he died without a Son; by which Acts, if William Rufus, or Henry had Sons, they were to Reign, though the manifest Right was in Robert, and his Heirs.

Principes, M. Paris, p. 40. Hen. Hunting. F. 216. B. Joh. Bromp. p. 598. Sapientiores utriusq; partis, Dunelm. p. 226. Flor. Wigorn. p. 650. R. Hoveden, F. 268. B. Daniel p. 61.

Amici utriusq; foedus inter eos statuerunt sic, quod Rex propter manifestum jus quod habuit ad Regnum possidendum, Roberto singulis Annis tria millia Marcarum Argenti daret

ab Anglia, & quis eorum diutius viveret, Haeres esset alterius, si absq; filio moreretur. M. Westm. p. 236. Henr. Huntingd. Hist. l. 7. F. 216. B. M. Par. p. 40.

And here it is observable, that though the greatest part of the Nobles did upon some dislike to Rufus, to whom they had sworn Allegiance, favour his Brother Robert, desiring to advance him to the Kingdom, and to destroy William, or deliver him alive to his Brother; yet do all our Historians declare, that they who sided with William, were faithfull to their Earthly Lord, and the other party were Traiterous, Perfidious and Perjured Persons, and that the thing it self was an execrable fact.

Maxima pars Nobiliorum Normannorum favebat Roberto, cupiens hunc sibi asciscere in Regem, fratremq; aut fratri tradere vivum, aut Regno private peremptum huius execrandi rei

principes exitire Odo, &c. hoc execrabile factum clam tractaverunt in quadragesima. Florent p. 642. Dunelm. A. D. 1088. Hoved. par. 1. F. 264. Radulph. de Diceto p. 489. Proditores vocat H. Huntingd. Hist. l. 7. F. 212. Perfides, W. Malmsb. Hist. l. 4. F. 68. Conjurationalis & perfidiae Socios, Florent. p. 643. Perjurij Reos, Math. Paris, p. 10.

G

And

L. 5. de Henr.
Primo. F. 88.

And in like manner they who stood for *Henry* against the same *Robert*, who had manifest right, are said by *W. of Malmsbury*, justas partes fovere, to be of the right side, and they who fought against him, to be *fidei Regi juratæ transfugæ*, violaters of their Oath, and yet this *Henry* was advanced to the Throne, not because he had Right during the life of his Elder Brother; but because *Robert* being gone to the Wars at *Jerusalem*, they knew not what was become of him, and were affraid to be long without Government.

Quia ignorabant quid actum esset de Roberto fratre primogenito, & timuerunt diu sine Regimine vacillare.

Matth. Paris p. 38.

But to proceed to other instances of this Nature from *History*. In the contest between King *Stephen*, and *Henry* Duke of *Normandy*, the Son of the Empreſs *Maud*, and the Right Heir of the Crown, *Theobald* Arch-bishop of *Canterbury*, and *Henry* Bishop of *Winton*, made peace betwixt them upon these conditions; That King *Stephen* from that time, should entirely enjoy the Kingdom, as lawfull Prince, with the Glory and Honour of it, and *Henry* should succeed him in the Kingdom as lawfull Heir. This peace was thus made, by the Counsel of the Wise Men, and the intervention of the Nobles, and Friends of both parties, and was declar'd to be honest and profitable, and saith *M. Paris*, it was concluded in a publick Convention of the Bishops, and Nobles of the Kingdom.

Rich. Hagulst. p. 330. H. Huntingd. I. 8. F. 228. Joh. Brompt. Chron. p. 1037. Gervaf. Chron. p. 1375. Chron. de Mailros. p. 167.

R. Stephanus Ducem Hen. cognovit in conventu Episcoporum,

& aliorum Regni Optimatum, quod jus Hereditarium in Regnum Angliæ habebat, & Dux benigne concessit, ut R. Stephanus tota vita sua, si veller, Regnum pacifice possideret, *M. Paris* p. 61, *M. Westm.* p. 246.

Fourthly,

Fourthly, Thus was it also in the Case of *Richard Duke of York*, and *Henry the Sixth*, for though *Richard* was the Right Heir to the Kingdom; yet the *Parliament*, held *A. D. 1460.* decreed that *Henry the Sixth* should reign, and be King during his Life, and that the remainder should rest in *Richard Duke of York*, and the lawfull Heirs of his Body, in general tail.

Quod Dux & filij sui, Edwardus Comes Marchie, & Edmundus Comes Rutlandie, qui ambo discretionis annos

attigerant, jurarent ipsi Regi fidelitatem, quodque ipsum recognoscerent eorum Regem quamdiu ageret in humanis, id enim Parliamentum ipsum decreverat, addendo, de ipsius Regis consensu, quod quamprimum Rex ipse in fata decederet, liceret dicto Duci suisque Heredibus coronam Anglie vendicare, & possidere. *Hist. Corp. Ed. Oxon. p. 550.*

SECT. VI.

The Inferences from the Resolutions of the best Casuists, to prove that the Oath of Allegiance, and of the Coronation, are reciprocal; and consequently that the obligation of the Oath of Allegiance doth cease, when the Original Compact is Fundamentally violated.

NOW the Inferences which naturally flow from this *Historical Account of the Kings of England*, and their Government, are these:

First, That the *Kings of England* were *Kings* by virtue of an *Original Compact*, made between them

and the People : this is apparent by the Contract made by the *Conquerour* with the *Barons*, and the *Nobility*, and *Commonalty* of *England* ; and the so frequent repetition of that, or a like Contract by the following *Princes* of this Realm, by the Oaths they took at their Coronation, to preserve to the People their *Ancient Rights*, and *Liberties*, their *Original Customs and Laws* ; and by the continual claim the people made to the Laws of their Country, the Laws of *King Edward*, and the *Magna Charta* as their Right.

Chap. 9. 13.

Chap. 14 p.
34.

Accordingly the *Lord Chancellour Fortescue*, having declared that our *Kings* are *Political Kings*, who received their Power from the People ; he adds, That, non alio pacto, by no other Contract did ever any Nation willingly incorporate it self into a Kingdom ; but that they by that means might more safely than before enjoy Themselves, and their Goods, of which intent that Nation would be defrauded ; if having thus submitted to the Government of a King, he might spoil them of their Goods, which before it was not Lawfull for any man to do.

Secondly, That this Compact was, That the King should govern them according to the Tenor of such *Ancient Laws*, and *Original Customes* as were received among them, according to the Good, Approved, and *Ancient Laws* of the Kingdom, saith *M. Paris*, the *Liberties* in which the *Nobles* confided, saith *M. of Westminster* ; the *Laws* of their Country, saith *W. of Malmesbury* ; the *Laws* of *King Edward*, say the *forementioned Authours* ; the *Proper Laws*,
and

and Ancient Customs in which their Fathers lived, say
Hoveden, and the Chronicle of Lichfield; the Laws
of England, the Ancient Laws of this Realm origi-
nally established, say our Statutes; the Laws of the
Land, the good Laws of the Land, saith the Oath
of Richard the Second; the Charters of the Liberties
of England, the Common Liberty, say the contenders
for them with King John and Henry the Third; the
fundamental Laws of the Kingdom, saith King James:
Let it be observed,

Stat. Merton.
c. 9. 25. H. 8.
c. 21.

First, Out of Fortescue, That our Kings rule not
by Royal only, that is, Absolute, but by Political
Power; and that therefore a King of England cannot
change the Laws of the Body, nor invade their Pro-
perties, but as they do consent, that he is advanced
to the Throne for the safety of the Law, and his Sub-
jects in their Goods, and Bodies, and derives even
this Power from the People; and therefore cannot
Lawfully Rule over them otherwise.

Ch. 9. p. 25,
25. Ch. 13. p.
32.
Ch. 13. p. 32.
c. 14. p. 34.

Secondly, That this is the difference betwixt a
King Governing Absolutely, and by Political Power,
that the first can change the Laws of his Kingdom,
impose Taxes, and other burthens without consent of
his Subjects; whereas a King who Rules Politically
over his People can neither change the Laws, without
consent of his Subjects, nor charge them with strange
impositions against their Wills; That a King ruling
only by Power Royal may easily become a Tyrant,
but whilst the Kingly Power is restrained by the Po-
litical Law, he cannot govern his People Tyranni-
cally: That the Contract made with a King governing

F. 25. B. 26.

F. 26. B.

F. 35. A.

ning *Absolutely*, is, that *his Will shall be the Law*; whereas a *Political King* cannot govern his People by any other Power than that of the Laws.

And from these Principles it clearly follows, That a *King* Ruling Arbitrarily, and Fundamentally, overturning the Laws, is no such *King* as our Constitution knows, or ever did admit of; That therefore no *Obedience*, or *Allegiance* can be due to him by Law, nor be intended in any *Legal Oath*, unless we can suppose men at the same time intended to preserve their Constitution, and yet designed to engage themselves, and others to be assistant to subvert it.

Thirdly, Let us consider the Rules laid down by the exactest *Casuits*, touching the Cases in which the obligation of an Oath ceaseth, and apply them to the present Case. Thus then they say:

First, That *when the Matter of an Oath ceaseth, the Obligation of it ceaseth also*, and that *the Matter of it must then be judged to cease, when the state of things betwixt the time of Swearing, and of fulfilling the Oath, is so changed, that if it could have been foreseen by him who took the Oath, at the time of his Swearing, he would not have taken the Oath. When the Root of the Obligation is taken away, the Obligation thence*

Tunc enim cessasse materiam censendum est, cum rerum status inter tempus jurandi, & tempus adimplendi, ita immutatus est, ut si quo tempore jurabatur, prævideri potuisset is qui postea insecutus est rerum status, non omnino juratum fuisset. *San. de Juramento Præf. 7. §. 7.*

Quia Radice obligationis

sublatâ, tollitur unâ pullulans inde obligatio; fuit autem materia, quæ causam dedit jurationi, Radix ejus obligationis, quæ ex illa juratione insecuta est. *Ibid.*

arising

arising must be taken away with it; now that which gave the ground for taking the Oath, is the Root of the Obligation, which followed upon the Oath.

Among the conditions which are *de jure communi* to be understood in all Oaths, though they be not expressed; this, saith the Reverend Bishop Sanderſon, and many of the School-men, is one, viz. *That things continue, and remain in the ſame ſtate they were at the time of ſwearing; whence he that ſwore to reſtore a Sword, is not bound to do it to a mad-man; and he that ſwore to marry ſuch a Woman, is not bound to do it, if he finds her afterwards with Child by another: theſe, and ſuch like conditions, though they be not expreſſed, are to be underſtood in all Oaths; and he that ſhould exclude any of them, would too rigidly interpret his Oath.*

aliquam uxorem, non tenetur ducere, ſi deprehendat eam eſſe ex alio viro gravidam: haſ, & iſtiusmodi conditiones in omni juramento ſubintelligi fas eſt, etſi non exprimantur; & rigidus nimis eſſet juramenti Interpres qui iſtarum aliquam excluſum irret. *Præſ. 2. §. 10.*

Secondly, *Amefius* adds, that in an Oath all thoſe conditions are to be underſtood, which by the received Cuſtoms and Manners of a Nation, are preſumed to be conceived as conditions belonging to it.

concipi præſumuntur ab iis ad quos juramentum ſpectat. De Caſ. Conſc. l. 4. c. 22.

And that when the formal reaſon of an Oath is taken away, the Oath ceaſeth, and that this is the Caſe

Quum aufer-
tur ratio for-
malis jura-

menti, juramentum ceſſat ratione eventus, qui caſus eſt eorum qui juraverunt ſe obedire domino aut principi alicui qui poſtea ceſſat eſſe talis. *Ibid. §. 36.* Nec tenetur, ſi ceſſet qualitas ſub qua alicui juravit, ut ſi Magiſtratus deſinat eſſe Magiſtratus. *Crot. de Jure Bel, & Pac. l. 2. c. 13. §. 18.*

of

of them who swear to a Prince, or to a Master, who after ceaseth so to be.

Saunders. de
juramentis pra-
lect. 4. p. 99.
Tombs lect.
18. p. 23.

Thirdly, The *Casuits* farther tells us, that a *promissory Oath*, made purely on such a Motive, and Foundation, suppoeth the continuance of that Foundation, as the condition of its Obligation; and therefore ceaseth to oblige, when he to whom, and for whose sake it was made, tollit fundamentum illud quo nitebatur, removes the Motive and Foundation of it. For instance, *Chremes* the Master swears he will give to *Sofia* ten Crowns per annum, and *Sofia* the Servant swears to serve him eight years, if *Sofia* will not serve him the third year, *Cremes* is not obliged to pay him ten Crowns at the years end; or if *Cremes* will not pay *Sofia* at the years end, *Sofia* is not bound to serve him eight years; because this payment was the Sole foundation of *Sofia's* service, this service the Sole motive of *Chremes's* Oath.

Fourthly, They add, That without which it cannot in equity, and reason be supposed that any reasonable man would, or any honest man should take an Oath, must be supposed as a tacit condition in the taking of it; so that no person is to be supposed to swear to doe any thing, but with this proviso, as far as it is consistent with equity and justice: Thus though *Solomon* promised to his Mother not to say nay to her request, yet when she asked *Abishag* the *Shunamite*, to be given to Wife to *Adonijah*, because the Marriage would have been incestuous, or would have given him a pre-
tence

penalty for disturbing of the Kingdom. Solomon breaks his promise, and thereby shews that it was made with this proviso; if I may safely and equitably do it. Hence they infer that the Laws of Nature, and Self-Preservation must give tacit limitations to our promissory Oaths, where they are general, and not expressive of Life and Death; because we have an Obligation to them antecedent to all Oaths; nor can it rationally be supposed that a man would promise to ruine and destroy himself, where the publick good did not make it necessary so to do.

If then the *Kings of England* be *Kings* by virtue of a Compact, originally made betwixt them, and the people; if the Tenor of that Compact be on the *King's* part, that he would govern them according to the Tenor of their Ancient Laws, Liberties, Charters, and Customs; or as the Coronation Oath now runs, that he will confirm to the people of England the Laws and Customs to them granted by the *Kings of England*; that he will grant to hold, and keep the Laws, and rightfull Customs which the Commonality of his Kingdom have, and to defend, and uphold them as much as in him lieth; that he will preserve, and maintain to the Bishops, and the Churches committed to their Charge, all Canonical Privileges, and due Law and Justice; and will be their Protector and Defender to his Power, and this Oath, and Compact be on the part of the Subject the very ground for his entering into a Promise, and Oath of Allegiance; the very formal Reason of it, the Motive, and Foundation upon which it is built: When any

H

King

King of England afterward makes void his *Oath* by an entire virtual dissolution of those *Laws* he had by *Oath* engaged himself to keep and confirm, and plainly sets himself to destroy that *Church* he swore to protect and defend, and to deny them all due Law and Justice; he seemeth by just consequence to have made void the Motive, and Foundation of that *Allegiance* they swore to him.

Grotius informs us, that the promise of a *King* to his *Subjects* gives them a right to the thing promised, that being the Nature of all Promises and Contracts: And this it doth more certainly

Dicimus ergo ex promisso & contractu Regis, quem cum subditis iniit, nasci veram & propriam obligationem quæ jus dat ipsis subditis, ea enim est & promissorum, & contractuum natura. De jurè Bel. & pacis, l. 2. c. 14. §. 8.

Plane si populus Regem fecerit non pleno jure, sed additis legibus, poterunt per eas leges contrarii actus irriti fieri aut omnino, aut ex parte, quia eatenus populus jus sibi servavit. *Ibid.* §. 2.

when it is only a promise of what was originally their Right confirmed by his *Oath*, and the very condition upon which they accepted of him or his *Progenitors* as their *Kings*, for as he rationally adds, if a People make a *King* by such *Laws*, they make void what he doth contrary to Law, because as to such things they have reserved the Right unto themselves, or at the least they have limited his Right; but to what end is all this, if by their *Oath* of *Allegiance* afterwards they virtually disannull that Right they had reserved to themselves, take off all limitations of the *King's* Right, and put it in his power to break all his promises without controll, by binding themselves to the same *Allegiance* to him when he doth so, as when he ruleth them by Law, and observes his promises and contracts? If therefore that must be

be supposed as a tacit condition of an Oath without which it cannot in equity and reason be supposed that any reasonable man would, or any honest man should take an Oath; if it cannot rationally be supposed that any rational body would promise, or swear to ruine and destroy themselves, their lives and fortunes, it cannot be supposed that they would consent to such an *Oath of Allegiance*, as doth entirely oblige them to suffer themselves and their Constitution to be ruined; and to be assisant to it, and therefore the tacit condition of that Oath must be, provided that the Commands of their Superiour be according to Law, and he doth govern them by Law.

Again, if according to *Fortescue* our *Kings* Rule not by *Absolute*, but by *Political Power*, and therefore cannot change their *Laws*, or invade the properties of the Subject but by their consent; if he be advanced to the Throne for the safety of his Subjects in their goods and bodies; if this be the difference betwixt an *absolute*, and a *political King*, or *King of England*, that the Will of the first is his Law, but the Law is the Rule of the Will of the Second; the first can change the Laws of his Kingdom without the peoples consent, the second cannot; the first may easily be a *Tyrant*, the second cannot govern his people *Tyrannically*; and if from hence it follows, that a *King* ruling Arbitrarily, and Fundamentally overturning the Laws, is no such King as our Constitution owns, or ever did admit of; and therefore that no *Allegiance* can be due to him by Law whom the Law knows not, nor ever

did suppose, but rather always did exclude: Then he who, being a *Political King*, makes himself absolute, requiring in one of his *Kingdoms* to be obeyed *without reserve*, 'in another setting up *Governors* and *Viceroy*s disabled by Law to be so, in a third part of his *Dominions* virtually dissolving all the Laws against *Papery*, by admitting a *Pope's Nuncio*, dispensing with the Laws, forbidding them the exercise of their *Religion*, and the taking upon them *Offices Civil* and *Military*, and by just consequence, all the Laws of the *Kingdom*, by claiming an *unlimited Power of Dispensing with them*: He who was entred into a League with a *Potent Monarch*, to set up *Papery* and *Arbitrary Power* in *England*; he who was bound by the *Principles* of his *Religion* to destroy the *Church of England*, and to give up *Protestants* to suffer the punishment decreed against *Hereticks* by the *Romish Church*, and had begun to dissolve her *Colleges*, and silence her *Bishops* by an *Illegal Arbitrary Commission*, and was so wholly given up to the will of the *Jesuits*, that nothing else could be expected from him he certainly must be none of the *Kings* to which we swore *Allegiance*; and by refusing to be a *political King*, the only *King* our Laws will own, he must have absolved his Subjects from that *Allegiance* which is due only to such a *King*: If *Rebus sic stantibus* be, as the Reverend *Bishop Sanderson* saith, a condition of all Oaths; if the matter of the Oath must be then judged to cease when things so change, that if the change could have been foreseen, the Oath would not have been taken; then much more must the Obligation of it cease, when so great a change is made as from a political

political to an absolute King, from a King ruling by Law, and protecting the Church to a King ruling against Law, and subverting the Church against both his Oath, and Law.

The same learned Bishop saith, That if a Soldier swears obedience to a General, or Commander of an Army, when he ceaseth to be General,

his Oath ceaseth to oblige; and if a Father swear never to change his Will, in which he hath made such a Son his Heir, he is absolved from that Oath, if his Son afterward endeavour to poison him, that an Oath to deliver a Sword binds not to deliver it to a mad man, who may destroy himself or me with it: And an Oath to marry a Woman binds not to do it, if she prove with

Child by another; why therefore should an Oath of Allegiance made to a politick King, ruling by Law, bind us to pay that Allegiance to a King thus ruling Arbitrarily; he ceasing as much to be that King we swore to, as a General plainly going about to destroy his Army ceaseth to be their General, and being as much different from his former self, as a Woman pregnant from a Virgin; and as like to be pernicious to the Government, as a Son attempting to poison his Father would be to him, or a Mad-man to them who should give him a Sword; and all this seems plainly to be contained in those excellent words of King James, that the King was *lex loquens*, after a sort, binding himself by a double Oath to the Observation of the Fundamental Laws of his Kingdom, tacitly AS BY BEING A KING, and so bound:

Sed qui ergo miles juret Obsequium belli Imperatori, finito ultimum bello, cum ipse desiderit esse Imperator, non ultra teneatur ex juramento Obsequium ei prestare? & si Pater aliquis juraret Testamentum in quo filium instituisset Heredem nonquam mutaturum, comperit tamen postea filium Heredem institutum Patri venenum miscuisse, Pater non ultra teneatur juramento. Præl. 7. §. 7.

Fourth Speech
at Whitehall
A D. 1609. p.
330, 331.

bound to protect as well the People, as the Laws of his Kingdom, and expressly by his Oath at his Coronation, so as every just King in a settled Kingdom IS BOUND TO OBSERVE THAT PACTIION MADE TO HIS PEOPLE BY HIS LAWS, in framing his Government agreeably thereunto; and therefore a King Governing in a settled Kingdom LEAVES TO BE KING, AND DEGENERATES INTO A TYRANT, as soon as he leaves off to rule according to his Laws:—Therefore all Kings that are not Tyrants, or purjured, will be glad to bound themselves within the Limits of their Laws, and they that persuade them to the contrary are VIPERS and PESTS, both against them, and the Common-wealth. Where it is granted,

1. That there be *Fundamental Laws of the Kingdom.* And

2ly. That our *Kings, even by being Kings, do tacitly bind themselves to protect the People, and the Laws of their Kingdoms.*

3ly. That the *King makes a Pactiion with his People by his Laws, which Pactiion he is bound to observe.* And,

4ly. That as soon as he leaves off to rule according to his Laws, *HE LAVES TO BE A KING,* and then certainly we must leave to be of right his Subjects, or to owe him *Allegiance.* And though, even in this case I cannot yet approve of Subjects taking up *Offensive Arms* against a *King* on this account, because I know not what power of *Avengeing* themselves

themselves they have, or how the Sword is put into their hands to doe it, nor who hath made them Judges in their own cause, yet if Providence is pleased to send a *Θεὸς ἀπὸ μνηστῆρς*, another Prince to free us from a King who hath thus violated his Compact, and not only thus *leaves to be King*, but doth it also by deserting us, and so far *abdicated the Government*, which is our present case; then I am apt to think we may honestly accept of this deliverance as being formerly absolved *de jure* from our *Allegiance* to such a King.

And lastly, let it be Observed that all our *Kings* if they were capable, were Crowned soon after their coming to the Throne, or the decease of their *Predecessors*, the Ceremony till of late being only omitted in the case of *Henry the Sixth*, a Child of *nine months old*; that at their *Coronation* they generally took their Oaths to *preserve their Peoples Rights and Liberties*, and govern them by their *Old and good Laws and Customs*; and that they received *Homage* of their Subjects at the same time. That the usual custom was, and still is, first, That they take their *Coronation Oath*, and then the *Arch-Bishop* ask the People *whether they be willing to subject themselves, and pay their due Allegiance to a King so sworn*; That if any of them at their *Coronation* refused to promise these things, they *endeavoured to hinder their Coronation* till they had satisfaction in that point; that sometimes the *Bishops*, before their *Coronation*, acquaint the People with the *Constitution of the King and Kingdom*, how the King should behave himself to them, and in what things they

they were to obey him, on which the practice of the Bishops in the case of *Magna Charta*, and *Charta de Forestis*, gives us a sufficient Comment, sometimes the Arch-Bishop at their Coronation adjures them by God not to take the Crown upon them, unless they uprightly intended to Observe their Oaths. Sometimes they promised Homage and Allegiance only conditionally, provided that their Laws might be granted, and that the King would be true to his engagements, as in the case of Henry the first, and of King John.

Of Hen. 1 M. Paris p. 38. Sub tali igitur conventionione supra dicti Comites & Barones juraverunt Johanni Duci Normanniz fidei servitium contra omnes homines. *Annal. Mon. Burton. p. 257. M. Rath. p. 137.*

Sometimes upon the attempts of their King's wholly to violate their Rights, Liberties, and Properties, they give them back their Homage, and resign it to them, and declare themselves no longer obliged to it nor guilty if they do not pay it: So that there were no such evidence of a contract as we have given, if the nature of a Political Government did not require, and

* Liguntia est vinculum aristius inter subditum & Regem utrosque invicem connectens, hunc ad protectionem & iustitiam Regimen, illum ad reverentiam & iustitiam Subjectionem. *Glossar.*

suppose it, If * Sir H. Spelman had not so expressly said, that the Oath of Allegiance is reciprocal betwixt King and Subject, yet these things plainly seem to prove the Oath of Allegiance

is, or was at least by our Fore fathers thought to be reciprocal and if so; then have the generallity of *Cavaliers* plainly determined, that it must cease on the one part, when the very substance of it is plain-

ly and perseveringly violated on the other: For both * *Papists* and *Protestants* unanimously agree

* Cum aliquid promissum est ob causam quæ subesse putabatur, & non subest, ut si juraveris te facturum aliquid eo quod beneficium aliquod te impetraturum sperabas, quod tamen non impetras, tunc ad implendum promissum non tenetis, quia conditio illa tacite in Juramento fuit inclusa, si beneficium impetraveris, conditio autem non impleta, promissum ipsum licet juratum, obstat. *page 11. Baldwin de Cas. cont. l. 2. c. 9. Cas. 17. River explic. Decal. p. 131. Str. Fombs l. 18. p. 123, 124. B. Sanderson de juram. praelect. 4. § 8. p. 99.*

in this, that when an Oath is reciprocal, or conditional, if one part break the Covenant, and violate the condition, the other is free from the Obligation of the Oath: For as a *conditional Proposition*, say *Logicians*, puts nothing in being, but when the condition is put, it becomes absolute; so a conditional Obligation becomes then only absolute, when, and whilst the condition is put, and therefore ceaseth when it is removed. Besides, the Engagement on the one side would not have been, without the engagement on the other; and therefore the performance of it must depend on the performance of the other. And 3ly, Otherwise these Oaths would serve only for a snare to honest men, as *v.g.* Put the case the Governors of two Armies mutually swear not to fight in so many days, if one party breaking his Oath, and fighting, the other be obliged by his Oath not to fight, it would be all one as if he had sworn to deliver up himself, and his Army to be butchered; which is contrary to the law of Nature: So in like manner, if a *King* hath so far violated his Oath, as to set himself directly to overthrow those Laws, and to destroy that *Church* he bound himself by Oath to defend; If he hath not only engaged himself in a *Religion*, which binds him upon pain of damnation to overthrow all the Laws made to keep it out, and to give up all his Subjects to suffer all the punishments decreed by the *Roman Church* against *Hereticks*, that is, the loss of Goods and Life; If he hath entred into a League with another potent Monarch to set up Popery, and Arbitrary Government in England, and yet his Subjects must be obliged

to bear Allegiance to him by virtue of their Oaths; then must they be ensnared so far by them, as to deliver up their Laws and Church to be destroyed, if not to assist their Prince in doing of it.

I am not ignorant that *Bishop Sanderſon* puts the

Rex aliquis ſimpliciter, & citra reſpectum ad fidelitatem ſubditorum, jorat ſe Regnum adminiſtraturum juſtè, & ſecundùm Leges, ſubditi alio tempore ſimpliciter, & citra reſpectum ad Principis Officiũ, jurant ſe ei debitam fidelitatem, & obedientiam præſtituros, utriq; obligantur quod ſui eſt Officii fideliter facere, eſi defecerit altera pars à ſuo Officio, ita ut neq; Rex ſolatus ſit ſuo juramento, ſi ſubditi debitum Obſequium non præſtiterent, nec ſubditi ſuo, ſi Rex à juſtitiz tramite deſlexerit. De juramento præſ. 4. §. 8. p. 100.

caſe thus, *A King one time ſwears ſimply, and without reſpect to the fidelity of his Subjects, to govern the Kingdom juſtly, and according to the Laws; the Subjects at another time ſimply, AND WITHOUT RESPECT TO THE PRINCE'S DUTY, ſwear to yield him due Fidelity, and Obedience, they are both obliged faithfully to do what is their duty, though the other party fail of his; ſo that neither is the King abſolved from his Oath, if the Subjects do not yield him their due obedi-*

ence, nor are the Subjects abſolved from their duty, though the King deviate from the way of Juſtice.

By this deciſion I was a long time diverted from ever thinking that the Oath of Allegiance was Reciprocal, or made by the Subject with reſpect to the Duty, or the Oath of the King, or the nature of our *Kingly Government*, though upon peruſal of our *Hiſtories* I find that all our *Anceſtors* thought otherwiſe, or at leaſt acted as if they really believed the Oath was reciprocal, and made with reſpect to the Obligation which was upon their *Sovereign*, tacitly as by being a King, and expreſſly by his Oath at his *Coronation*, to protect as well as the People as the

the Laws of the Kingdom. Nor is there any thing in these words, besides the *Authority* of that great man, to shew the contrary. For,

1. When the *King* swears to protect his People, this sure doth not oblige him to protect an *Out-Law*, or a *Rebel*; 'tis therefore plain, that this part of the Oath respecteth the fidelity of his People.

2. Whereas he saith, *the King simply, and without respect to the fidelity of his Subjects, swears to govern the Kingdom justly, and according to the Laws*, 'tis very reasonable he should do so; because he is a *King* only by, and according to the Laws, and because the Laws have provided him a remedy against the undutifulness of any of his Subjects: If any particular Subject offend against his *Government*, he can punish him by Law; if any number of them prove *Rebels*, he can cut them off by Law; if all of them prove so, when he hath power sufficient he hath them all at his mercy by Law, and they have forfeited both Lives and Fortunes to him, and what could he desire more? Whereas, if the Subject be bound to yield *Allegiance* to the *King*, though he deviate never so much from the way of Justice, though he usurps as much upon their Lives and Fortunes, without their violation of the Law, as if they were the worst of *Rebels*, they are left in a very deplorable condition, nor is it any advantage to them that they have *fundamental Laws* by which they ought to be governed, or that the *Government is Political*, and tyed to the observance of

of the Laws, and not absolute, or that the *Gover-
nor* is sworn to rule according to Law, seeing upon
his Sup^oosition, they are as much enslaved by their
Oath of *Allegiance*, as they could be, were their
King absolute, tied to no Oaths or Laws, but free
to deal with them at his pleasure.

Nor doth it alter the case at all, that the *King*
swears to govern by Law at one time, and many of
them swear *Allegiance* at another: For besides what
I have shewed, that the custom antiently was, and
still is, at the very time of his taking his *Coronation*
Oath, for the *Subjects* to declare their acceptance of
him, thereupon as their *King*, and for some of all *Or-
ders* to do him immediate *Honour* in the name of the
Rest, which seem to be evident marks of *Stipula-
tion*, and *Mutual Engagement*: I say, besides this,
it seems not at all material to the business, when
the Oath is taken, provided that the Ground, *Rea-
son*, and Foundation, or chief *Motive* of it, whenso-
ever it be taken, is the aforesaid contract of the *King*
to govern them by Law, either already made, or at
his *Coronation* to be made.

F I N I S.